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EXAMINER

POLLACK, MELVIN H

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2445

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,765

Applicant(s)

POHJA ET AL.

Examiner

MELVIN H. POLLACK

Art Unit

2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-22,24-31,64,68-85 and 88-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-22,24-31,64,68-85 and 88-91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-849)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/8/09 have been fully considered but they are not persuasive. An analysis of the arguments is provided below.
2. In response to applicant's argument that Peters is nonanalogous art because it focuses on Bluetooth technology rather than RFID technology (P. 16), it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Peters teaches that its methods may be used in a wide variety of technologies (col. 4, line 35 - col. 5, line 55) ranging from Bluetooth to Infrared (col. 5, line 55 - col. 7, line 40). Furthermore, Bluetooth is a radio-based technology (col. 6, lines 44 - 55), albeit with differences to RFID. The field of the applicant's endeavor, even in light of the amendments, is wireless ad-hoc networking between devices, and the pertinent problem is detecting a hugging state and gathering sufficient information to form a channel. No inventor of ordinary skill in the art would concentrate solely on RFID to the exclusion of any other wireless, let alone radio, communication.
3. In response to applicant's argument that one cannot improve RFID by studying Bluetooth, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined

teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

4. In response to applicant's argument that Peters is meant for address resolution rather than establishing communication (Pp. 16-17), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Furthermore, the purpose of address resolution in Peters is to establish ad hoc communications. "It is necessary to determine the IP address of the target device before messages are to be exchanged (col. 1, lines 50 – 64)." It is presumed based on the claims and specification that applicant uses stored addresses in a similar lookup manner, and applicant has added no functionality to show otherwise.

5. In response to applicant's argument that Peters does not expressly disclose receiving a host name from an external application (P. 17), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, Libes has been cited as teaching obtaining the handle from the other device. That said, Peters also teaches this limitation, as the internal lookup table is triggered by external handles (col. 8, lines 50 - 55).

6. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., device receives a host name as some kind of content from another device (P. 17)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1 specifically recites that "a piece of information is received by said first electronic device directly from said second electronic device... obtaining a handle proceeding from said received piece of information... said first device obtains said handle by retrieving a stored address." The reasonable interpretation of these terms is that the claim scope includes both external and internal applications for providing host names.

8. Applicant argues that Libes does not expressly disclose the use of RFID tags (P. 17). The test is not whether the art uses the express term of the claim but whether the art teaches the same structure and function as the limitation. In this case, Libes teaches the use of a short range radio frequency connection (Para. 38) wherein information is traded when the objects are in close physical proximity (Paras. 32 - 33). One of ordinary skill in the art, based on the common dictionary definition and instant application definitions of RFID, would recognize the equivalence. Further, the RFID tag as currently claimed does not deviate in structure or function

from the radio communication described. As for Bluetooth, it is mentioned as an example of a possible uniform communication signal, and not as the exclusive realm of the signals.

9. Therefore, the rejection is maintained for the reasons above. This action is final.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 2, 6-12, 14-18, 20-22, 24-31, 64, 68-74, 76-80, 82-85, 88-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Libes (2003/0162556) in view of Peters (6,601,093).

12. For claim 1, Libes teaches a method (abstract) of creating an ad-hoc connection between at least two electronic devices for enabling an interaction between said at least two electronic devices (Paras. 1-30, 49), said method comprising at a first one of said electronic devices (Para. 31):

- a. detecting a hugging state (handshaking connection) between said first electronic device and a second one of said electronic devices (Para. 32), a hugging state being assumed to be given if said first electronic device and said second electronic device are at least in close vicinity to each other (Para. 33) and a piece of information is received by said first electronic device directly from said second electronic device (Para. 39);

- b. in case a hugging state is detected, obtaining a handle proceeding from said received piece of information (Paras. 32 and 39, handshaking data), said handle comprising at least an address of at least one other of said at least two electronic devices than said first electronic device (Paras. 32 and 43, wireless network address); and
 - c. establishing a communication channel between said first electronic device and said at least one other of said electronic devices using said address included in said handle (Paras. 41-45);
 - d. wherein detecting said hugging state requires receiving a content of a radio frequency identification tag of said at least one other of said electronic devices as said piece of information from said second electronic device (Para. 38).
13. Libes does not expressly disclose that said first device obtains said handle by retrieving a stored address which is mapped to a received radio frequency identification. Libes teaches that said received piece of information comprises an address of said at least one other of said electronic devices (Paras. 32, 43) and wherein said first device obtains said handle by using said address at least as part of said handle (Paras. 39-41). Peters teaches a method and system (abstract) of performing address resolution in an ad-hoc networking environment (col. 1, line 1 – col. 5, line 30; col. 9, lines 5-55) by sending a handle comprising an address (col. 5, line 30 - col. 6, line 45) in a radio frequency identification tag environment (col. 6, lines 45-55), wherein an identification is mapped to a stored address (col. 7, line 20 - col. 9, line 5). At the time the invention was made, one of ordinary skill in the art would have added Peters to Libes in order to improve dynamic address handling in communications (col. 1, line 40 – col. 2, line 60).

14. For claims 2, 64, Libes teaches that detecting said hugging state requires at least one of detecting a physical touch between said first electronic device and said second electronic device, detecting a short distance between said first electronic device and said second electronic device and detecting a pointing of one of said first electronic device and said second electronic device to the respective other one of said first electronic device and said second electronic device (Paras. 33-39).
15. For claims 6, 68, Libes teaches that said first device obtains said handle by exchanging further pieces of information with said second device (Para. 32, security key, manufacturer's information; Para. 44, error correction codes).
16. For claims 7, 69, Libes teaches that said handle comprises further information for at least one of establishing said communication channel and using an established communication channel (Para. 43).
17. For claim 8, Libes teaches that said communication channel is set up according to one of predefined user preferences and a user input (Paras. 36, 43-45).
18. For claim 9, Libes teaches monitoring conditions on said established communication channel and updating said communication channel in case said conditions are detected to be worse than predetermined conditions (Paras. 41, 45).
19. For claims 10, 70, Libes teaches that said communication channel uses one of a direct link between said first electronic device and said at least one other of said electronic devices and an indirect link between said first electronic device and said at least one other of said electronic devices (Para. 32).

20. For claim 11, 71-73, Libes teaches that said communication channel uses a link between said first electronic device and said at least one other of said electronic devices enabling an interaction via said communication channel over any distance, at least as soon as said first electronic device and said at least one other of said electronic devices reach a distance to each other which does not permit a use of another type of link for an interaction via said communication channel (Para. 43).

21. For claim 12, 74, Libes teaches performing a security operation for determining at least one of whether said communication channel is allowed to be established between said first electronic device and said at least one other of said electronic devices and whether said communication channel is allowed to be used for a specific data transmission (Para. 32).

22. For claim 14, Libes teaches notifying at least one application in at least one of said first electronic device and said at least one other of said electronic devices about said communication channel (Para. 43).

23. For claims 15, 77, Libes teaches wherein a notified application starts an automatic interaction via said communication channel with another application (Para. 45).

24. For claims 16, 78, Libes teaches that said at least one application is an application currently used by a user of said first electronic device or of said at least one other of said electronic devices (Para. 43).

25. For claims 17, 79, Libes teaches invoking at least one application or at least one function of at least one application in at least one of said first electronic device and said at least one other of said electronic devices (Para. 43), in order to enable said at least one invoked application or at

least one invoked function to interact via said communication channel with another application (Para. 45).

26. For claims 18, 80, Libes teaches establishing said communication channel is followed by a context dependent interaction via said communication channel with said at least one other of said electronic devices (Paras. 31-32, 39-45).

27. For claims 20, 82, Libes teaches that said first electronic device receives from said second electronic device during a hugging state in addition to said piece of information an application specific information (Paras. 43-45).

28. For claim 21, Libes teaches that said at least one other of said electronic devices via the established communication channel an application specific information (Paras. 43-45).

29. For claims 22, 83, Libes teaches that adapting the behavior of an application comprises determining a direction in which data is transmitted via said established communication channel between applications of said first device and of said at least one other of said electronic devices (Paras. 39-41).

30. For claims 24, 84, Libes teaches selecting a suitable data format for data which is to be transmitted via said communication channel (Para. 39).

31. For claims 25, 85, Libes teaches terminating said established communication channel in case of at least one of a predetermined period during which said communication channel is not used for some interaction between said first electronic device and said at least one other of said electronic devices, an application using said communication channel causes said communication channel to be terminated, and a hugging state is detected for a second time (Paras. 36, 45).

32. For claim 26, Libes teaches that said at least one other of said electronic devices comprises said second electronic device (Para. 31).
33. For claim 27, Libes teaches that said at least one other of said electronic devices is different from said second electronic device (Para. 31).
34. For claims 28, 89, Libes teaches (abstract) an apparatus (Paras. 1-31, 49) comprising:
- a. a touch detection portion (Para. 33), which touch detection portion is configured to detect a hugging state between said apparatus and a further apparatus (Paras. 31-32), a hugging state being assumed to be given if said apparatus and said further apparatus are at least in close vicinity to each other (Para. 33) and a piece of information is received by said apparatus directly from said further apparatus (Para. 39), and which touch detection portion is configured to obtain a handle proceeding from a piece of information received from a further apparatus in case a hugging state is detected (Paras. 32, 39), said handle comprising at least an address belonging to at least one apparatus other than said apparatus (Paras. 32, 43), wherein detecting said hugging state requires receiving a content of a radio frequency identification tag of said at least one other of said electronic devices as said piece of information from said second electronic device (Para. 38); and
 - b. a link creation portion which is configured to establish a communication channel to at least one other apparatus using an address included in a handle provided by said touch detection portion for enabling an interaction with said at least one other apparatus (Paras. 41-45).
35. Libes does not expressly disclose that said first device obtains said handle by retrieving a stored address which is mapped to a received radio frequency identification. Libes teaches that

said received piece of information comprises an address of said at least one other of said electronic devices (Paras. 32, 43) and wherein said first device obtains said handle by using said address at least as part of said handle (Paras. 39-41). Peters teaches a method and system (abstract) of performing address resolution in an ad-hoc networking environment (col. 1, line 1 – col. 5, line 30; col. 9, lines 5-55) by sending a handle comprising an address (col. 5, line 30 – col. 6, line 45) in a radio frequency identification tag environment (col. 6, lines 45-55), wherein an identification is mapped to a stored address (col. 7, line 20 – col. 9, line 5). At the time the invention was made, one of ordinary skill in the art would have added Peters to Libes in order to improve dynamic address handling in communications (col. 1, line 40 – col. 2, line 60).

36. For claim 29, Libes teaches that said touch detection portion and said link creation portion are integrated into an expandable framework including an additional control portion, wherein said touch detection portion and said link creation portion are connected to said additional control portion, wherein said additional control portion is configured to be supplemented by functional blocks supporting a respective service, and wherein said additional control portion comprises at least one interface for enabling an input to functional blocks added to said additional control portion (Para. 45).

37. For claim 30, Libes teaches an expandable framework (abstract) for an electronic device (Paras. 1-30, 49), said expandable framework comprising:

- a. a touch detection portion, a link creation portion and an additional control portion (Para. 31);
- b. wherein said touch detection portion is configured to detect a hugging state between said electronic device and a further electronic device (Para. 32), a hugging state

being assumed to be given if said electronic device and said further electronic device are at least in close vicinity to each other (Para. 33) and a piece of information is received by said electronic device directly from said further electronic device (Para. 39), and which touch detection portion is configured to obtain a handle proceeding from a piece of information received from a further electronic device in case a hugging state is detected (Paras. 32, 39), said handle comprising at least an address belonging to at least one electronic device other than said electronic device (Paras. 32, 43), wherein detecting said hugging state requires receiving a content of a radio frequency identification tag of said at least one other of said electronic devices as said piece of information from said second electronic device (Para. 38);

c. wherein said link creation portion is configured to establish a communication channel to at least one other electronic device using an address included in a handle provided by said touch detection portion for enabling an interaction with said at least one other electronic device (Paras. 41-45);

d. wherein said touch detection portion and said link creation portion are connected to said additional control portion (Para. 45); and

e. wherein said additional control portion is configured to be supplemented by functional blocks supporting a respective service, and comprises at least one interface for enabling an input to functional blocks added to said additional control portion (Para. 45);
and

f. wherein said additional control portion is configured to adapt the behavior of an application of said electronic device to results of measurements by at least one sensor that is configured to detect physical manipulations of said electronic device (Paras. 30-39).

38. Libes does not expressly disclose that said first device obtains said handle by retrieving a stored address which is mapped to a received radio frequency identification. Libes teaches that said received piece of information comprises an address of said at least one other of said electronic devices (Paras. 32, 43) and wherein said first device obtains said handle by using said address at least as part of said handle (Paras. 39-41). Peters teaches a method and system (abstract) of performing address resolution in an ad-hoc networking environment (col. 1, line 1 – col. 5, line 30; col. 9, lines 5-55) by sending a handle comprising an address (col. 5, line 30 – col. 6, line 45) in a radio frequency identification tag environment (col. 6, lines 45-55), wherein an identification is mapped to a stored address (col. 7, line 20 – col. 9, line 5). At the time the invention was made, one of ordinary skill in the art would have added Peters to Libes in order to improve dynamic address handling in communications (col. 1, line 40 – col. 2, line 60).

39. For claim 31, Libes teaches a software program product in which a software code (abstract) for creating an ad-hoc connection between at least two electronic devices for enabling an interaction between said at least two electronic devices is stored (Paras. 1-30, 49), said software code realizing the following steps when running in a first one of said electrical devices:

a. detecting a hugging state between said first electronic device and a second one of said electronic devices (Para. 32), a hugging state being assumed to be given if said first electronic device and said second electronic device are at least in close vicinity to each

other (Para. 33) and a piece of information is received by said first electronic device directly from said second electronic device (Para. 39);

b. in case a hugging state is detected, obtaining a handle proceeding from said received piece of information (Paras. 32, 39), said handle comprising at least an address of at least one other of said at least two electronic devices than said first electronic device (Paras. 32, 43); and

c. establishing a communication channel between said first electronic device and said at least one other of said electronic devices using said address included in said handle (Paras. 41-45).

d. wherein said additional control portion is configured to adapt the behavior of an application of said electronic device to results of measurements by at least one sensor that is configured to detect physical manipulations of said electronic device (Paras. 30-39).

40. Libes does not expressly disclose that said first device obtains said handle by retrieving a stored address which is mapped to a received radio frequency identification. Libes teaches that said received piece of information comprises an address of said at least one other of said electronic devices (Paras. 32, 43) and wherein said first device obtains said handle by using said address at least as part of said handle (Paras. 39-41). Peters teaches a method and system (abstract) of performing address resolution in an ad-hoc networking environment (col. 1, line 1 – col. 5, line 30; col. 9, lines 5-55) by sending a handle comprising an address (col. 5, line 30 – col. 6, line 45) in a radio frequency identification tag environment (col. 6, lines 45-55), wherein an identification is mapped to a stored address (col. 7, line 20 – col. 9, line 5). At the time the

invention was made, one of ordinary skill in the art would have added Peters to Libes in order to improve dynamic address handling in communications (col. 1, line 40 – col. 2, line 60).

41. For claim 76, Libes teaches that said apparatus further comprises an application selector configured to notify at least one application in at least one of said apparatus and said at least one other apparatus about said communication channel (Para. 45).

42. For claim 88, Libes teaches that said apparatus is a mobile device (Figs. 1-3).

43. For claim 90, Libes teaches at least one sensor (Fig. 3).

44. For claim 91, Libes teaches detecting movement by at least one sensor (Paras. 33-39), and adapting the behavior of an application of said first electronic device to measurement results of said sensor (Paras. 33-39).

45. Claims 13, 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over Libes as applied to claims 1, 28 above, and further in view of Haartsen (2004/0110508).

46. For claim 13, 75, Libes does not expressly disclose preventing the existence of parallel communication channels created by said at least one other of said electronic devices and said first electronic device. Haartsen teaches a method and system (abstract) of forming ad-hoc radio networks (Paras. 1-72 and 132-137) that contains this limitation (Paras. 74-76, 82-83). At the time the invention was made, one of ordinary skill in the art would have added Haartsen to Libes in order to improve node discovery (Para. 24).

47. Claims 19, 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Libes as applied to claims 1, 28 above, and further in view of Kreiner et al. (7,224,698).

48. For claim 19, 81, Libes does not expressly disclose at least one of a copy-and-paste functionality, a cut-and-paste functionality and a drag-and-drop functionality in said first device makes use of said established communication channel for interacting with said at least one other of said electronic devices. Kreiner teaches a method and system (abstract) for sharing information over an ad-hoc network (col. 1, line 1 – col. 8, line 37) that uses this functionality (col. 8, line 37 – col. 9, line 45). At the time the invention was made, one of ordinary skill in the art would have added Kreiner in order to keep information synchronized (col. 1, line 60 – col. 2, line 20).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN H. POLLACK whose telephone number is (571)272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. H. P./
Examiner, Art Unit 2445
25 January 2010

/VIVEK SRIVASTAVA/
Supervisory Patent Examiner, Art Unit 2445